



RAVALLI COUNTY ATTORNEY

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MEMORANDUM

TO: Ravalli County Commissioners

FROM: George H. Corn, Ravalli County Attorney

CC: Alex Beal, Deputy Attorney

DATE: January 15, 2008

RE: Stanford Hospital v. EBMS; Ravalli County; MACo; et al



Over the Christmas Holidays, we were served by a suit in the above entitled case. It is a suit for damages filed by Stanford Hospital against the County and other parties for alleged failure to make insurance payments for one of the spouses' of one of our employees. I have included a copy of the complaint with this memo for your review.

There is no coverage in the matter, which means my office has been working on the defense. Alex has been working with Cori Cook, the attorney for EBMS and Vern Peterson from JPT. We should be able to get out of the case; however, my concern is that someone answers in California Court on our behalf.

At this point, Alex has confirmed from Cori Cook that EBMS has retained a law firm in California to answer for the County as well as EBMS and JPT. The firm has to verify there are no potential conflicts of interest and will let us know at some point early this week. We have spent a substantial amount of time, primarily by Alex, to get to this point.

Again, we should be able to get out of the suit, at some point. Until then, hopefully, EBMS will continue to pay the attorneys to represent us. I wanted to give you a heads up if EBMS and JPT do not follow through with its obligations, this could consume a substantial amount of attorney time.

**SUMMONS
(CITACION JUDICIAL)**

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

EMPLOYEE BENEFIT MANAGEMENT SERVICES, INC.; RAVALLI COUNTY; MONTANA ASSOCIATION OF COUNTIES HEALTHCARE TRUST--GROUP HEALTH BENEFITS PLAN; and DOES 1-50, inclusive

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

STANFORD HOSPITAL AND CLINICS, a California Corporation

(ENDORSED)

SUM-100

**FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)**

2007 NOV 16 PM 12:19

**CHIEF EXEC. OFFICER/CLERK
SUPERIOR COURT OF CA
COUNTY OF SANTA CLARA**

BY L. QUACH-MARCELLANA

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA--UNLIMITED JURISDICTION
191 N. FIRST STREET
SAN JOSE, CALIFORNIA 95113-1090
SUPERIOR COURT--DOWNTOWN

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

KARLENE ROGERS-ABERMAN (SBN 237883)
STEPHENSON, ACQUISTO & COLMAN
303 North Glenoaks Boulevard #700
Burbank, California 91502-3226

DATE:

(Fecha)

NOV 16 2007

Clerk, by

(Secretario)

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):

[SEAL]

(ENDORSED)
FILED

2007 NOV 16 PM 12:21

(SBN 113755) JUDGE
(SBN 136541) EXEC. OFFICER/CLERK
(SBN 237883) SUPERIOR COURT OF CA
CITY OF SANTA CLARA
BY _____ DEPUTY
L. QUACH-MARCELLANA

1 **STEPHENSON, ACQUISTO & COLMAN**
2 **JOY YOUNG STEPHENSON, ESQ.**
3 **BARRY SULLIVAN, ESQ.**
4 **KARLENE J. ROGERS-ABERMAN, ESQ.**
5 303 N. Glenoaks Blvd., Suite 700
6 Burbank, CA 91502
7 Telephone: (818) 559-4477
8 Fax: (818) 559-5484

9 Attorneys for Plaintiff,
10 **STANFORD HOSPITAL AND CLINICS**

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **UNLIMITED JURISDICTION - COUNTY OF SANTA CLARA**

13 **STANFORD HOSPITAL AND**
14 **CLINICS, a California Corporation,**

15 Plaintiff,

16 vs.

17 **EMPLOYEE BENEFIT**
18 **MANAGEMENT SERVICES, INC;**
19 **RAVALLI COUNTY; MONTANA**
20 **ASSOCIATION OF COUNTIES**
21 **HEALTHCARE TRUST--GROUP**
22 **HEALTH BENEFITS PLAN; and**
23 **DOES 1-50, inclusive,**

24 Defendants.

Case No.

(Demand exceeds \$25,000)

COMPLAINT FOR DAMAGES:

1. Breach of Written Contract;
2. Breach of Oral Contract;
3. Breach of Contract Implied in Fact;
4. *Quantum Meruit*;
5. Negligent Misrepresentation;
6. Estoppel.

BY FAX

PARTIES

1. Plaintiff Stanford Hospital and Clinics ("Stanford") is a nonprofit corporation organized and existing pursuant to the laws of the State of California. Stanford has its principal place of business in Santa Clara County, California. Stanford provides medical services, equipment, and supplies to sick patients.

2. Defendant Employee Benefit Management Services, Inc. ("EBMS") is a Montana corporation, has its principal place of business in Billings, Montana,

1 and is qualified to do business in the State of California. EBMS is in the business
2 of providing insurance-related services, and is a third party administrator
3 providing various claims paying services on behalf of self-funded group health
4 plans.

5 3. Defendant Ravalli County is an entity, form unknown, existing under
6 and by virtue of the laws of the State of Montana. Stanford is informed and
7 believes, and thereon alleges, that Ravalli County provides a health care coverage
8 plan to its employees, beneficiaries, members and/or subscribers (the "Plan
9 Beneficiaries"). Stanford is further informed and believes, and thereon alleges,
10 that at all relevant times, Ravalli County conducted business in the State of
11 California.

12 4. Defendant Montana Association of Counties Healthcare Trust--
13 Group Health Benefits Plan ("MACO") is a business entity, form unknown,
14 existing under and by virtue of the laws of the State of Montana. Stanford is
15 informed and believes, and thereupon alleges, that MACO underwrites medical
16 insurance plans. Stanford is further informed and believes, and thereon alleges,
17 that at all relevant times, MACO conducted business in the State of California.

18 5. Stanford is unaware of the true names and capacities, whether
19 corporate, associate, individual, partnership or otherwise of defendants DOES 1-
20 50, inclusive, and therefore sues such defendants by such fictitious names.
21 Stanford will seek leave of the Court to amend this complaint to allege their true
22 names and capacities when ascertained.

23 6. Defendants, and each of them, at all relevant times, have transacted
24 business in the State of California. The violations alleged within this complaint
25 have been and are being carried out in California.

26 7. At all relevant times each of the defendants, including the DOE
27 defendants, was and is the agent, employee, employer, joint venturer,
28 representative, alter ego, subsidiary, and/or partner of one or more of the other

1 defendants, and was, in performing the acts complained of herein, acting within
2 the scope of such agency, employment, joint venture, or partnership authority,
3 and/or is in some other way responsible for the acts of one or more of the other
4 defendants.

5
6 **COMMON FACTUAL BACKGROUND**

7 8. At all relevant times, Defendants had access to contract rates
8 negotiated between Stanford and MultiPlan, Inc. ("MultiPlan"), a non-party to
9 this action. Defendants represented that payment for the services provided by
10 Stanford to Defendants' Plan Beneficiaries would be made at 75% of total billed
11 charges, pursuant to the compensation rates set forth in the MultiPlan contract.

12 9. At all relevant times, a patient with initials "D.A." ("Patient") was a
13 Plan Beneficiary of Defendants' self-funded health plan.

14 10. Stanford provided medically necessary services, supplies and/or
15 equipment to Patient between March 31, 2004 and June 14, 2004, and Defendants
16 were billed periodically for such services.

17 11. On March 15, 2004, Stanford telephonically verified Patient's
18 eligibility and coverage under Defendants' health plan, and was told by EBMS
19 that there was a \$1,000,000.00 lifetime maximum in payable benefits, of which
20 only \$10,976.71 had been used. At that time, EBMS provided Stanford with
21 authorization #U0406200062, which approved 4 days of treatment.

22 12. **DOS No. 1.** During the dates of service from March 31, 2004
23 through May 17, 2004 ("DOS No. 1"), Stanford provided medically necessary
24 services, supplies and/or equipment to Patient. Patient was admitted with a
25 diagnosis of cerebrovascular anomaly, which diagnosis remained the same upon
26 discharge. The total charges for Patient's treatment during DOS No. 1 amounted
27 to \$862,838.06.

28 13. On May 18, 2004, Stanford spoke with "Joan H" at EBMS who

1 confirmed that all 47 days of Patient's treatment during DOS No. 1 had been
2 approved under authorization #U0406200062.

3 14. On May 21, 2004 Stanford spoke with "Susan" in EBMS' benefits
4 department, who again verified that Patient had a lifetime benefits maximum of
5 \$1,000,000.00, of which \$100,000.00 had been allotted for rehabilitation services.
6 Susan further stated that of the remaining \$900,000.00 lifetime maximum,
7 \$386,000.00 in benefits had been used.

8 15. Based on the rates set forth in the MultiPlan contract, Stanford
9 expected to be reimbursed by Defendants in the amount of \$647,128.54, which
10 was 75% of the \$862,838.06 in total billed charges.

11 16. On or about June 2, 2004, Stanford timely and properly submitted
12 Patient's claim for DOS No. 1 to EBMS for payment, but EBMS only paid
13 \$595,508.40, \$51,620.13 less than what was due.

14 17. DOS No. 2. During the dates of service from May 17, 2004 through
15 June 1, 2004 ("DOS No. 2"), Stanford provided medically necessary
16 rehabilitation services, supplies and/or equipment to Patient. The total charges
17 for Patient's treatment during DOS No. 2 amounted to \$85,770.70.

18 18. On May 18, 2004, Stanford spoke with "Betsy P." who verified that
19 Patient had \$100,000.00 in rehabilitation benefits.

20 19. On May 21, Stanford spoke by telephone with "Joanne" who stated
21 that Patient was "getting close to" his lifetime maximum. Stanford was then
22 transferred to Susan in EBMS' benefits department, who stated that Patient had
23 \$100,000.00 allocated for rehabilitation, and that no rehabilitation benefits had
24 been used.

25 20. On June 2, 2004, Stanford received a call from Joanne who stated
26 that all 15 days of DOS No. 2 had been approved for payment under authorization
27 #U0413800028.

28 21. Based on the rates set forth in the MultiPlan contract, Stanford

1 expected to be reimbursed by Defendants in the amount of \$64,328.03, which was
2 75% of the \$85,770.70 in total billed charges.

3 22. On or about June 5, 2004, Stanford timely and properly submitted
4 Patient's claim for DOS No. 2 to EBMS for payment, but EBMS has failed to
5 reimburse Stanford for the medically necessary services, supplies and/or
6 equipment provided to Patient.

7 23. **DOS No. 3.** During the dates of service from June 1, 2004 through
8 June 2, 2004 ("DOS No. 3"), Stanford provided medically necessary services,
9 supplies and/or equipment to Patient. Patient was admitted with a diagnosis of
10 cerebrovascular anomaly, and had a discharge diagnosis of head deformity. The
11 total charges for Patient's treatment amounted to \$6,951.23.

12 24. On June 2, 2004, Stanford spoke with "Fred" at EBMS who verified
13 that \$613,000.00 of Patient's \$1,000,000 lifetime maximum had been used.

14 25. On June 4, 2004, Stanford spoke with "Nancy B.", who authorized
15 Patient's treatment for DOS No. 3 under Authorization #U0415400018.

16 26. Based on the rates set forth in the MultiPlan contract, Stanford
17 expected to be reimbursed by Defendants in the amount of \$5,213.42, which was
18 75% of the \$6,951.23 in total billed charges.

19 27. On or about June 7, 2004, June 8, 2004 and June 28, 2004, Stanford
20 timely and properly submitted three interim bills for Patient's treatment during
21 DOS No. 3, but EBMS has failed to reimburse Stanford for the medically
22 necessary services, supplies and/or equipment provided to Patient.

23 28. **DOS No. 4.** During the dates of service from June 2, 2004 through
24 June 14, 2004 ("DOS No. 4"), Stanford provided medically necessary
25 rehabilitation services, supplies and/or equipment to Patient. The total billed
26 charges for Patient's treatment amounted to \$54,814.84.

27 29. On June 3, 2004, Stanford spoke with "Maureen B." at EBMS who
28 authorized 12 days of rehabilitation treatment under authorization

1 #U0415400036.

2 30. Based on the rates set forth in the MultiPlan contract, Stanford
3 expected to be reimbursed by Defendants in the amount of \$41,111.13, which was
4 75% of the \$54,814.84 in total billed charges.

5 31. On or about June 18, 2004, Stanford timely and properly submitted
6 Patient's claim for DOS No. 4 to EBMS for payment, but EBMS has failed to
7 reimburse Stanford for the medically necessary services, supplies and/or
8 equipment provided to Patient.

9 32. The total amount still due and owing from Defendants is
10 \$162,272.71 (i.e., 75% of the total billed charges for DOS No. 1 + DOS No. 2 +
11 DOS No. 3 + DOS No. 4).

12 33. Stanford reasonably relied on EBMS' representations regarding
13 Patient's coverage, and was thereby induced to provide services and not to make
14 other financial arrangements to obtain payment for the medical services, supplies
15 and/or equipment rendered to Patient.

16 34. Stanford has exhausted all administrative remedies to appeal
17 Defendants' refusal to pay the amounts properly due and owing for the medical
18 services, supplies and/or equipment rendered to Patient.

19 35. Stanford has satisfied all conditions and has performed all duties and
20 obligations required to be performed in accordance with the law.

21
22 **FIRST CAUSE OF ACTION**

23 (Breach of Written Contract)

24 (Against All Defendants)

25 36. Stanford incorporates by reference and re-alleges paragraphs 1
26 through 35 here as though set forth in full

27 37. Prior to the rendition of the medical services, supplies and/or
28 equipment to Patient, Stanford had entered into a contract with MultiPlan.

1 38. Stanford is informed and believes, and thereon alleges, that the
2 MultiPlan contract became effective on May 1, 1994, and remained in effect
3 during all dates and times referenced herein.

4 39. Under the terms of the MultiPlan contract, Stanford agreed to
5 provide medical services, supplies and/or equipment to Plan Beneficiaries who
6 were covered by certain health plan participants accessing the MultiPlan contract.
7 The participating health plans, in turn, upon submission by Stanford of a claim for
8 payment, agreed to pay according to the rates established in the MultiPlan
9 contract.

10 40. Stanford is informed and believes, and thereon alleges, that prior to
11 the dates of service herein alleged, Defendants contracted with MultiPlan to be a
12 participating health plan payor under the MultiPlan contract. As such,
13 Defendants obtained the right to reimburse Stanford at a specified discounted
14 rate, and undertook the duty to pay pursuant to the terms of the MultiPlan
15 contract. Stanford further alleges, on information and belief, that the
16 establishment of such a relationship between hospitals and payors through a
17 network pricer is the primary intent of all parties entering into such agreements.

18 41. Stanford duly performed all obligations on its part to be performed
19 under the terms of the MultiPlan contract, except as the same may have been
20 waived or excused by Defendants or their conduct.

21 42. Defendants breached the MultiPlan contract by failing and refusing
22 to pay the balance due for medical services, supplies, and/or equipment rendered
23 by Stanford, as priced by the MultiPlan contract, despite demand therefor.

24 43. As a direct and proximate result thereof, Stanford has been damaged
25 in the sum of \$162,272.71.
26
27
28

1 **SECOND CAUSE OF ACTION**

2 (breach of Oral Contract)

3 (Against All Defendants)

4 44. Stanford incorporates by reference and re-alleges paragraphs 1
5 through 35 here as though set forth in full.

6 45. By virtue of the conduct described above, Stanford and Defendants
7 entered into an oral contract which was created when Stanford agreed to provide
8 medically necessary services, supplies and/or equipment to Patient in exchange
9 for reimbursement by Defendants at the compensation rates set forth in the
10 MultiPlan contract.

11 46. Stanford complied with all, or substantially all of the material
12 provisions in the oral contract (i.e., it rendered medically necessary care to
13 Patient).

14 47. All conditions required for Defendants' performance have occurred.

15 48. Defendants breached the oral contract by failing to pay Stanford the
16 contract value of the medical services, supplies and/or equipment provided to
17 Patient by Stanford, despite due demand therefor.

18 49. As a direct and proximate result of Defendants' conduct, Stanford
19 has been damaged in the amount of \$162,272.71.

20
21 **THIRD CAUSE OF ACTION**

22 (breach of Contract Implied-in-Fact)

23 (Against All Defendants)

24 50. Stanford incorporates by reference and re-alleges paragraphs 1
25 through 35 here as though set forth in full.

26 51. By virtue of the conduct described above, Stanford and Defendants
27 entered into an implied-in-fact contract which was created when Stanford agreed
28 to provide medically necessary services, supplies and/or equipment to Patient in

1 exchange for reimbursement by Defendants at the compensation rates set forth in
2 the MultiPlan contract.

3 52. Stanford complied with all, or substantially all of the material
4 provisions of the implied-in-fact contract (i.e., it rendered medically necessary
5 care to Patient).

6 53. All conditions required for Defendants' performance have occurred.

7 54. Defendants breached the implied-in-fact contract by failing to pay
8 Stanford the contract value of the medical services, supplies and/or equipment
9 provided to Patient by Stanford, despite due demand therefor.

10 55. As a direct and proximate result of Defendants' conduct, Stanford
11 has been damaged in the amount of \$162,272.71.

12
13 **FOURTH CAUSE OF ACTION**

14 *(Quantum Meruit)*

15 *(Against all Defendants)*

16 56. Stanford incorporates by reference and re-alleges paragraphs 1
17 through 35 here as though set forth in full.

18 57. As a direct and proximate result of Defendants' assurances and
19 representations that Patient was a Plan Beneficiary, Stanford rendered medically
20 necessary services, supplies and/or equipment to Patient.

21 58. Defendants have not paid Stanford for the value of the services,
22 despite due demand therefor.

23 59. The usual and customary value of the services provided to Patient at
24 Defendants' request is \$1,010,374.80.

25 60. Defendants have made a partial payment of the amount billed under
26 the compensation terms set forth in the MultiPlan contract, in the sum of
27 \$595,508.42.

28 61. The unpaid remaining amount for the value of the services provided

1 is \$414,866.38.

2 62. As a direct and proximate result of Defendants' conduct, Stanford
3 has been damaged in the amount of \$414,866.38.

4
5 **FIFTH CAUSE OF ACTION**

6 (Negligent Misrepresentation)

7 (Against All Defendants)

8 63. Stanford incorporates by reference and re-alleges paragraphs 1
9 through 35 here as though set forth in full.

10 64. As stated above, Stanford agreed to provide medically necessary
11 services, equipment, and supplies to the Plan Beneficiaries of Defendants' health
12 care plan, in exchange for which Defendants agreed to pay Stanford pursuant to
13 the MultiPlan contract.

14 65. On or about the dates listed above, Defendants and/or their agents
15 informed Stanford that Patient was covered under a healthcare plan sponsored
16 and/or administered by Defendants, and represented to Stanford that Defendants
17 would pay 75% of Stanford's total billed charges, and also authorized the medical
18 services to be provided to Patient by providing various treatment authorization
19 numbers.

20 66. Defendants' representations were false (or were made without a
21 reasonable basis for believing them to be true) in that Defendants had no intention
22 of adhering to the parties' agreement and paying Stanford 75% of Stanford's total
23 billed charges for the medically necessary services, supplies and/or equipment
24 rendered to Patient.

25 67. Defendants intended Stanford to rely on the aforementioned
26 misrepresentations to induce Stanford to render and/or continue rendering
27 medical services, equipment and/or supplies to Patient and abstain from making
28 alternative financial arrangements with Patient.

68. Stanford reasonably relied on Defendants' representations.

69. Defendants refused and continue to refuse to pay Sanford the full amount due despite the representations of Defendants to the contrary.

70. As a direct and proximate result of the aforementioned misrepresentations, Stanford was obstructed from pursuing other avenues of reimbursement, rendered medical care on false pretenses, and has suffered substantial detrimental damages in the sum of \$162,272.71.

SIXTH CAUSE OF ACTION

(Estoppel)

(Against All Defendants)

71. Stanford incorporates by reference and re-alleges paragraphs 1 through 35 here as though set forth in full.

72. Defendants were apprised of all the facts when representing to Stanford that Patient was a Plan Beneficiary and that payment would be made for the charges incurred by Stanford for the medically necessary services, supplies and/or equipment rendered to Patient.

73. When promising, assuring and representing to Stanford that Defendants' health plan would reimburse Stanford for such treatment, Defendants knew, or should have known, that Stanford would be induced to rely on Defendants' promises, assurances and representations.

74. Stanford reasonably and justifiably relied upon such representations and assurances.

75. As a direct and proximate result of Defendants' conduct, Stanford has been damaged in the amount of \$162,272.71.

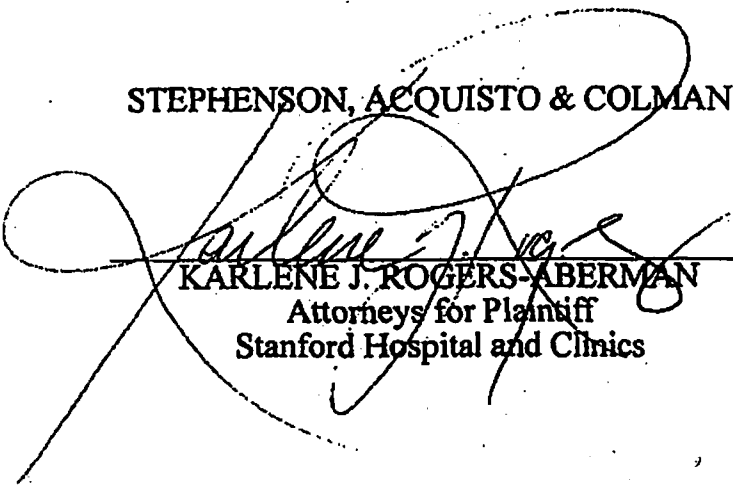
PRAYER FOR RELIEF

WHEREFORE, Stanford prays for judgment as follows:

1. For the first, second, third, fifth and sixth causes of action, the principal sum of \$162,272.71;
2. For the fourth cause of action, the principal sum of \$414,866.38;
3. For all causes of action, interest on such principal sum at the rate of fifteen percent (15%) per annum, pursuant to Cal. Health & Safety Code § 1371;
4. For all causes of action, pre-judgment interest on such principal sum, at the legal rate, pursuant to Cal. Civ. Code § 3287(a); and,
5. For all causes of action, such other and further relief as the court deems just and proper.

Respectfully submitted,
Dated: November 15, 2007

STEPHENSON, ACQUISTO & COLMAN


KARLENE J. ROGERS-ABERMAN
Attorneys for Plaintiff
Stanford Hospital and Clinics

BY FAX

CIVIL LAWSUIT NOTICE

Superior Court of California, County of Santa Clara
191 N. First St., San Jose, CA 95113

CASE NUMBER: _____

2078V099041

READ THIS ENTIRE FORM

PLAINTIFFS (the person(s) suing): Within 60 days after filing the lawsuit, you must serve each defendant with the *Complaint*, *Summons*, an *Alternative Dispute Resolution (ADR) Information Sheet*, and a copy of this *Civil Lawsuit Notice*, and you must file written proof of such service.

DEFENDANTS (The person(s) being sued): You must do each of the following to protect your rights:

1. You must file a written response to the *Complaint*, in the Clerk's Office of the Court, within 30 days of the date the *Summons* and *Complaint* were served on you;
2. You must send a copy of your written response to the plaintiff; and
3. You must attend the first Case Management Conference.

Warning: If you do not do these three things, you may automatically lose this case.

RULES AND FORMS: You must follow the California Rules of Court (CRC) and the Santa Clara County Superior Court Local Civil Rules and use proper forms. You can get legal information, view the rules and get forms, free of charge, from the Self-Service Center at 99 Notre Dame Avenue, San Jose (408-882-2900 x-2926), or from:

- State Rules and Judicial Council Forms: www.courtinfo.ca.gov/forms and www.courtinfo.ca.gov/rules
- Local Rules and Forms: <http://www.sccsuperiorcourt.org/civil/rule1toc.htm>
- Rose Printing: 408-293-8177 or becky@rose-printing.com (there is a charge for forms)

For other local legal information, visit the Court's Self-Service website www.sccselfservice.org and select "Civil."

CASE MANAGEMENT CONFERENCE (CMC): You must meet with the other parties and discuss the case, in person or by telephone, at least 30 calendar days before the CMC. You must also fill out, file and serve a *Case Management Statement* (Judicial Council form CM-110) at least 15 calendar days before the CMC.

You or your attorney must appear at the CMC. You may ask to appear by telephone – see Local Civil Rule 8.

Your Case Management Judge is: Kevin McKenney Department: 16

The 1st CMC is scheduled for: (Completed by Clerk of Court)

Date: 04/08/08 Time: 2:15pm in Department 16

The next CMC is scheduled for: (Completed by party if the 1st CMC was continued or has passed)

Date: _____ Time: _____ in Department _____

ALTERNATIVE DISPUTE RESOLUTION (ADR): If all parties have appeared and filed a completed *ADR Stipulation Form* (local form CV-5008) at least 15 days before the CMC, the Court will cancel the CMC and mail notice of an ADR Status Conference. Visit the Court's website at www.sccsuperiorcourt.org/civ/ADR/ or call the ADR Administrator (408-882-2100 x-2530) for a list of ADR providers and their qualifications, services, and fees.

WARNING: Sanctions may be imposed if you do not follow the California Rules of Court or the Local Rules of Court.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
ALTERNATIVE DISPUTE RESOLUTION
INFORMATION SHEET / CIVIL DIVISION

Many cases can be resolved to the satisfaction of all parties without the necessity of traditional litigation, which can be expensive, time consuming, and stressful. The Court finds that it is in the best interests of the parties that they participate in alternatives to traditional litigation, including arbitration, mediation, neutral evaluation, special masters and referees, and settlement conferences. Therefore, all matters shall be referred to an appropriate form of Alternative Dispute Resolution (ADR) before they are set for trial, unless there is good cause to dispense with the ADR requirement.

What is ADR?

ADR is the general term for a wide variety of dispute resolution processes that are alternatives to litigation. Types of ADR processes include mediation, arbitration, neutral evaluation, special masters and referees, and settlement conferences, among others forms.

What are the advantages of choosing ADR instead of litigation?

ADR can have a number of advantages over litigation:

- < ADR can save time. A dispute can be resolved in a matter of months, or even weeks, while litigation can take years.
- < ADR can save money. Attorney's fees, court costs, and expert fees can be reduced or avoided altogether.
- < ADR provides more participation. Parties have more opportunities with ADR to express their interests and concerns, instead of focusing exclusively on legal rights.
- < ADR provides more control and flexibility. Parties can choose the ADR process that is most likely to bring a satisfactory resolution to their dispute.
- < ADR can reduce stress. ADR encourages cooperation and communication, while discouraging the adversarial atmosphere of litigation. Surveys of parties who have participated in an ADR process have found much greater satisfaction than with parties who have gone through litigation.

What are the main forms of ADR offered by the Court?

- < Mediation is an informal, confidential process in which a neutral party (the mediator) assists the parties in understanding their own interests, the interests of the other parties, and the practical and legal realities they all face. The mediator then helps the parties to explore options and arrive at a mutually acceptable resolution of the dispute. The mediator does not decide the dispute. The parties do.
- < Mediation may be appropriate when:
 - < The parties want a non-adversary procedure
 - < The parties have a continuing business or personal relationship
 - < Communication problems are interfering with a resolution
 - < There is an emotional element involved
 - < The parties are interested in an injunction, consent decree, or other form of equitable relief

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ALTERNATIVE DISPUTE RESOLUTION INFORMATION SHEET/ CIVIL DIVISION

< Arbitration is a normally informal process in which the neutral (the arbitrator) decides the dispute after hearing the evidence and arguments of the parties. The parties can agree to binding or non-binding arbitration. Binding arbitration is designed to give the parties a resolution of their dispute when they cannot agree by themselves or with a mediator. If the arbitration is non-binding, any party can reject the arbitrator's decision and request a trial.

Arbitration may be appropriate when:

- < The action is for personal injury, property damage, or breach of contract
- < Only monetary damages are sought
- < Witness testimony, under oath, is desired
- < An advisory opinion is sought from an experienced litigator (if a non-binding arbitration)

< Neutral evaluation is an informal process in which a neutral party (the evaluator) reviews the case with counsel and gives a non-binding assessment of the strengths and weaknesses on each side and the likely outcome. The neutral can help parties to identify issues, prepare stipulations, and draft discovery plans. The parties may use the neutral's evaluation to discuss settlement.

Neutral evaluation may be appropriate when:

- < The parties are far apart in their view of the law or value of the case
- < The case involves a technical issue in which the evaluator has expertise
- < Case planning assistance would be helpful and would save legal fees and costs
- < The parties are interested in an injunction, consent decree, or other form of equitable relief

< Special masters and referees are neutral parties who may be appointed by the court to obtain information or to make specific fact findings that may lead to a resolution of a dispute.

Special masters and referees can be particularly effective in complex cases with a number of parties, like construction disputes.

< Settlement conferences are informal processes in which the neutral (a judge or an experienced attorney) meets with the parties or their attorneys, hears the facts of the dispute, and normally suggests a resolution that the parties may accept or use as a basis for further negotiations.

Settlement conferences can be effective when the authority or expertise of the judge or experienced attorney may help the parties reach a resolution.

What kind of disputes can be resolved by ADR?

Although some disputes must go to court, almost any dispute can be resolved through ADR. This includes disputes involving business matters; civil rights; corporations; construction; consumer protection; contracts; copyrights; defamation; disabilities; discrimination; employment; environmental problems; harassment; health care; housing; insurance; intellectual property; labor; landlord/tenant; media; medical malpractice and other professional negligence; neighborhood problems; partnerships; patents; personal injury; probate; product liability; property damage; real estate; securities; and sports, among other matters.

Where can you get assistance with selecting an appropriate form of ADR and a neutral for your case, for information about ADR procedures, or for other questions about ADR?

Contact:
Santa Clara County Superior Court
ADR Administrator
408-882-2530

Santa Clara County DRPA Coordinator
408-792-2704